

ENTERED

May 16, 2023

Nathan Ochsner, Clerk

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

Lorie Duff,	§	
	§	
	§	
<i>Plaintiff,</i>	§	
	§	Case No. 4:20-cv-03430
v.	§	
	§	
Frontier Airlines, Inc., et al.	§	
	§	
<i>Defendants.</i>	§	

SHOW CAUSE ORDER AGAINST AYLANCIA LILLIE

Plaintiff Lori Duff filed a motion against Aylancia Lillie, who is not a party in this case, claiming that Lillie failed to comply with a subpoena to appear for her deposition on April 19, 2023. Dkt. 70; *see also* Dkt. 69 (return of service for the subpoena). Plaintiff asks the Court to hold Lillie in contempt or, alternatively, to compel Lillie to appear for a deposition. *Id.*

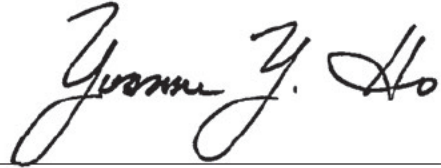
Unless Lille has an adequate excuse, her failure to comply with the subpoena could result in her being held in contempt. Fed. R. Civ. P. 45(g). A copy of the motion is attached as Exhibit A.

It is therefore **ORDERED** that Aylancia Lillie appear as follows to show cause why she should not be held in contempt:

Monday, June 5, 2023 at 10:00 a.m.
515 Rusk Street, 7th Floor
Houston, Texas 77002
Courtroom 704

It is further **ORDERED** that this Order and the attached Exhibit A be served on Aylancia Lillie by the United States Marshals at her address of record: 1015 Hummingbird Point Lane; Houston, TX 77090.

Signed on May 16, 2023, at Houston, Texas.

A handwritten signature in black ink, appearing to read "Yvonne Y. Ho", written over a horizontal line.

Yvonne Y. Ho
United States Magistrate Judge

EXHIBIT A

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

LORIE DUFF)	
)	
PLAINTIFF)	
)	
v.)	CIVIL ACTION NO. 4:20-CV-03430
)	
FRONTIER AIRLINES, INC. AND ABM)	JURY DEMANDED
AVIATION, INC.)	
)	
DEFENDANTS)	

**PLAINTIFF’S MOTION FOR CONTEMPT, OR IN THE ALTERNATIVE MOTION TO
SHOW CAUSE AND COMPEL NON-PARTY WITNESS AYLANCIA LILLIE TO
APPEAR FOR DEPOSITION**

TO THE HONORABLE JUDGE OF THE COURT:

COMES NOW, LORI DUFF (“Plaintiff”) requesting the Court to find non-party Witness Aylancia Lillie in contempt for failure to obey a duly served subpoena (Doc. 69) or in the alternative compel her to show cause for nonappearance and/or compel her to appear for her deposition and for cause would show as follows:

I. Introduction

1. This lawsuit arises from an incident (Plaintiff fell from a wheelchair disembarking an airplane) where employees of Defendant ABM Aviation, Inc. were assisting Plaintiff at Houston Intercontinental Airport. One of the two employees, Aylancia Lillie, was properly served with a subpoena to appear for her deposition on April 19, 2023 at the office of the undersigned. Doc. 69 (Return of Service for the Subpoena).
2. Counsel for Plaintiff and ABM Aviation, Inc. appeared for the deposition, but the witness ignored the subpoena and did not appear. See Ex. A, Certificate of Non-Appearance.
3. The return of service shows that Aylancia Lillie was served in Houston, Harris County, well

within the allowed subpoena range.

II. Relief Requested

4. Aylancia Lillie is a direct witness to the events underlying this lawsuit and her testimony is needed.
5. If a person does not obey a subpoena or a subpoena related order, a court can hold the person in contempt. FRCP 45(g); see also *Fisher v. Marubeni Cotton Corp.*, 526 F.2d 1338, 1342 (8th Cir. 1975).
6. Per FRCP 45(g), Plaintiff seeks an order finding Aylancia Lillie in contempt for failing to appear for her deposition per the properly served subpoena. The certificate of non-appearance shows, by clear and convincing evidence, that the witness failed to honor the subpoena. Ex. A.
7. If the Court does not find Aylancia Lillie in contempt, the Plaintiff alternatively requests the Court issue an order compelling Aylancia Lillie to appear for her deposition and/or show cause why should not be compelled to appear for her deposition.

III. Prayer

WHEREFORE, PREMISES CONSIDERED, Plaintiff requests that the Court grant this Motion and find non-party witness Aylancia Lillie in contempt, or in the alternative, order Aylancia Lille to show cause for her non-appearance and compel her to attend her deposition. Plaitniff further requests all other relief at law or equity for which Plaintiff may show herself entitled.

Respectfully Submitted,

THE FORSBERG LAW FIRM, P.C.

BY: /s/ Kevin Forsberg
KEVIN A. FORSBERG
State Bar No.: 24009204
15899 Hwy 105 W
Montgomery, Texas 77356
936-588-6226
936-588-6229 Facsimile
Kevin@forsberglaw.net

CERTIFICATE OF SERVICE

This is to certify that on May __11__, 2023, a true and correct copy of the foregoing documents was served by efileing on:

Marc Michael Rose
Rose Law Group PLLC
State Bar No. 24098350
Fed. Id. No. 2943701
777 Main Street, Suite 600
Ft. Worth, Texas 76102
Telephone: (817) 887-8118
Facsimile: (817) 887-8001
E-mail: marc@roselg.com

Brenton J. Allison
Gilman & Allison LLP
2005 Cullen Blvd.
Pearland, Texas 77581
Telephone: (713) 224-6622
Facsimile: (866) 543-3643
E-mail: ballison@gilmanallison.com
COUNSEL FOR DEFENDANT ABM AVIATION, INC.

Aylancia Lillie Via USPS: 9405 5036 9930 0542 5535 20
1015 Hummingbird Point Lane
Houston, Texas 77090

_____/s/ Kevin A. Forsberg_____
KEVIN A. FORSBERG

Certificate of Conference

The undersigned provided a copy of this motion to counsel Marc Rose for ABM Aviation, Inc. before filing and they indicated they have no objection to the granting of this motion.

_____/s/ Kevin Forsberg_____
Kevin Forsberg

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

LORIE DUFF)	
)	
PLAINTIFF)	
)	
v.)	CIVIL ACTION NO. 4:20-CV-03430
)	
FRONTIER AIRLINES, INC. AND ABM)	JURY DEMANDED
AVIATION, INC.)	
)	
DEFENDANTS)	

**PLAINTIFF’S MOTION FOR CONTEMPT, OR IN THE ALTERNATIVE MOTION TO
SHOW CAUSE AND COMPEL NON-PARTY WITNESS AYLANCIA LILLIE TO
APPEAR FOR DEPOSITION**

TO THE HONORABLE JUDGE OF THE COURT:

COMES NOW, LORI DUFF (“Plaintiff”) requesting the Court to find non-party Witness Aylancia Lillie in contempt for failure to obey a duly served subpoena (Doc. 69) or in the alternative compel her to show cause for nonappearance and/or compel her to appear for her deposition and for cause would show as follows:

I. Introduction

1. This lawsuit arises from an incident (Plaintiff fell from a wheelchair disembarking an airplane) where employees of Defendant ABM Aviation, Inc. were assisting Plaintiff at Houston Intercontinental Airport. One of the two employees, Aylancia Lillie, was properly served with a subpoena to appear for her deposition on April 19, 2023 at the office of the undersigned. Doc. 69 (Return of Service for the Subpoena).
2. Counsel for Plaintiff and ABM Aviation, Inc. appeared for the deposition, but the witness ignored the subpoena and did not appear. See Ex. A, Certificate of Non-Appearance.
3. The return of service shows that Aylancia Lillie was served in Houston, Harris County, well

within the allowed subpoena range.

II. Relief Requested

4. Aylancia Lillie is a direct witness to the events underlying this lawsuit and her testimony is needed.
5. If a person does not obey a subpoena or a subpoena related order, a court can hold the person in contempt. FRCP 45(g); see also *Fisher v. Marubeni Cotton Corp.*, 526 F.2d 1338, 1342 (8th Cir. 1975).
6. Per FRCP 45(g), Plaintiff seeks an order finding Aylancia Lillie in contempt for failing to appear for her deposition per the properly served subpoena. The certificate of non-appearance shows, by clear and convincing evidence, that the witness failed to honor the subpoena. Ex. A.
7. If the Court does not find Aylancia Lillie in contempt, the Plaintiff alternatively requests the Court issue an order compelling Aylancia Lillie to appear for her deposition and/or show cause why should not be compelled to appear for her deposition.

III. Prayer

WHEREFORE, PREMISES CONSIDERED, Plaintiff requests that the Court grant this Motion and find non-party witness Aylancia Lillie in contempt, or in the alternative, order Aylancia Lille to show cause for her non-appearance and compel her to attend her deposition. Plaitniff further requests all other relief at law or equity for which Plaintiff may show herself entitled.

Respectfully Submitted,

THE FORSBERG LAW FIRM, P.C.

BY: /s/ Kevin Forsberg
KEVIN A. FORSBERG
State Bar No.: 24009204
15899 Hwy 105 W
Montgomery, Texas 77356
936-588-6226
936-588-6229 Facsimile
Kevin@forsberglaw.net

CERTIFICATE OF SERVICE

This is to certify that on May __11__, 2023, a true and correct copy of the foregoing documents was served by efileing on:

Marc Michael Rose
Rose Law Group PLLC
State Bar No. 24098350
Fed. Id. No. 2943701
777 Main Street, Suite 600
Ft. Worth, Texas 76102
Telephone: (817) 887-8118
Facsimile: (817) 887-8001
E-mail: marc@roselg.com

Brenton J. Allison
Gilman & Allison LLP
2005 Cullen Blvd.
Pearland, Texas 77581
Telephone: (713) 224-6622
Facsimile: (866) 543-3643
E-mail: ballison@gilmanallison.com
COUNSEL FOR DEFENDANT ABM AVIATION, INC.

Aylancia Lillie Via USPS: 9405 5036 9930 0542 5535 20
1015 Hummingbird Point Lane
Houston, Texas 77090

_____/s/ Kevin A. Forsberg_____
KEVIN A. FORSBERG

Certificate of Conference

The undersigned provided a copy of this motion to counsel Marc Rose for ABM Aviation, Inc. before filing and they indicated they have no objection to the granting of this motion.

_____/s/ Kevin Forsberg_____
Kevin Forsberg

Certificate of Non Appearance for the Deposition of Aylancia Lillie

Page 1

CERTIFICATE OF NON-APPEARANCE
FOR THE DEPOSITION OF AYLANCIA LILLIE
APRIL 19, 2023

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

LORI DUFF	:	
Plaintiff,	:	
	:	
vs.	:	C.A. 4:20-cv-03430
	:	
FRONTIER AIRLINES, INC.	:	
AND ABM AVIATION, INC.	:	
Defendants.	:	

Certificate of Non Appearance for the Deposition of Aylancia Lillie

Page 2

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

LORI DUFF
Plaintiff,
vs.
C.A. 4:20-cv-03430
FRONTIER AIRLINES, INC.
AND ABM AVIATION, INC.
Defendants.

CERTIFICATE OF NON-APPEARANCE
FOR THE DEPOSITION OF AYLANCIA LILLIE
APRIL 19, 2023

I, Donna Worley, a Certified Shorthand Reporter and Notary Public in and for the State of Texas, do hereby certify that pursuant to Notice issued on February 7, 2023, I was present at the offices of The Forsberg Law Firm, 15899 Highway 105 W., Montgomery, Texas, on April 19, 2023 from 9:30 a.m. to 10:00 a.m., accompanied by Mr. Kevin A. Forsberg, Attorney for Plaintiff Lori Duff, and Mr. Marc Michael Rose and Mr. Brenton J. Allison, Attorneys for Defendant ABM Aviation, Inc., attending by Zoom, and Mr. Christian Barrett, Videographer, and that the witness, AYLANCIA LILLIE, did not appear to be deposed.

Certificate of Non Appearance for the Deposition of Aylancia Lillie

Page 3

1 All taxable cost will be incurred by Mr. Kevin A.
2 Forsberg, SBN# 24009204, Attorney for Plaintiff, in the
3 amount of \$_____.

4
5 GIVEN UNDER MY HAND AND SEAL OF OFFICE, on this, the
6 19th day of April, 2023.

7 *Donna Worley*



8 Donna Worley, Texas CSR 7390
9 Expiration Date: 10-31-24
10 Liberty Litigation Support, LLC
11 Firm Registration No. 708
12 7171 Highway 6 North, Suite 250
13 Houston, Texas 77095
14 Phone: 281-200-5310
15 Fax: 713-533-8997
16
17
18
19
20
21
22
23
24
25

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

LORIE DUFF)	
)	
PLAINTIFF)	
)	
v.)	CIVIL ACTION NO. 4:20-CV-03430
)	
FRONTIER AIRLINES, INC. AND ABM)	JURY DEMANDED
AVIATION, INC.)	
)	
DEFENDANTS)	

**ORDER GRANTING PLAINTIFF'S MOTION FOR CONTEMPT, OR IN THE
ALTERNATIVE MOTION TO SHOW CAUSE AND COMPEL NON-PARTY WITNESS
AYLANCIA LILLIE TO APPEAR FOR DEPOSITION**

ON THIS DAY, the Court considered Plaintiff's MOTION FOR CONTEMPT, OR IN
THE ALTERNATIVE MOTION TO SHOW CAUSE AND COMPEL NON-PARTY WITNESS
AYLANCIA LILLIE TO APPEAR FOR DEPOSITION, and after considering the motion, and
the record, the Court finds the motion meritorious; it is therefore

ORDERED that Plaintiff Motion is GRANTED as follows:

Granted (X)

_____ Aylancia Lillie is found in contempt of Court based upon clear and
convincing evidence she failed to honor a subpoena to appear for her
deposition.

_____ Aylancia Lillie is hereby ORDERED to appear for her deposition at The
Forsberg Law Firm, PC, 15899 Hwy 105 W, Montgomery Texas 77356 on
June 28, 2023 at 11:00 a.m.; failure to appear for this deposition and
provide testimony may result in further sanction including but not limited
to incarceration.

_____ An oral show cause hearing is scheduled for _____
where Aylancia Lillie is required to appear and show cause for her
nonappearance and noncompliance with the subpoena to testify in this
matter.

Signed this ____ day of _____, 2023.

U.S. District Court Judge